

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARILYN NIKOLAS,

Plaintiff,

v.

BOLDPLANNING, INC., et al.,

Defendants.

CASE NO. C18-5645 BHS

ORDER DENYING PLAINTIFF'S  
MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Plaintiff Marilyn Nikolas ("Nikolas") motion for reconsideration. Dkt. 44.

On March 18, 2020, Nikolas filed a motion for partial summary judgment. Dkt. 44. On April 8, 2020, the Court held a hearing on a discovery motion and extended the noting date of Nikolas's motion and set it for consideration on the Court's May 1, 2020 calendar. Dkt. 34. On August 11, 2020, the Court denied the motion. Dkt. 43. On August 14, 2020, Nikolas filed the instant motion requesting that the Court vacate the order and reserve ruling on the motion until discovery is complete. Dkt. 44. Nikolas argues that reconsideration is warranted because a misunderstanding existed regarding the noting date for her motion. Although the parties intended to renote the motion until

1 discovery was completed, the proposed order continuing trial and pretrial deadlines did  
2 not direct the Clerk to renote the motion. Based on this misunderstanding, Nikolas failed  
3 to file a reply and now seeks a vacation of the order so that she may file a reply and  
4 submit additional facts to contest Defendants' facts. This is not a plausible solution for a  
5 number of reasons including the fact that it violates due process to submit new factual  
6 material in a reply brief. *Dutta v. State Farm Mut. Auto. Ins. Co.*, 895 F.3d 1166, 1171–  
7 72 (9th Cir. 2018) (“Plainly, the practice rules recognize the potential inequities that  
8 might flow from the injection of new matter at the last round of briefing.”). Therefore,  
9 the Court denies Nikolas’s motion for reconsideration.

10 The Court informs the parties that the usual practice is to resolve all legal issue  
11 prior to trial. Thus, in some extreme cases, the Court has stricken impending trial dates  
12 when it was evident that numerous unresolved legal issues would result in an  
13 unnecessarily long jury trial. Having said that, the Court recommends that the parties  
14 stipulate to a new dispositive motion deadline so that legal issues that could be resolved  
15 prior to trial may be considered.

16 **IT IS SO ORDERED.**

17 Dated this 17th day of August, 2020.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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